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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/807,866

03/23/2004

Ted M. Dean

T32123US

5509

28805 7590 10/24/2008
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EXAMINER

NORDMEYER, PATRICIA L

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

10/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/807,866	Applicant(s) DEAN ET AL.	
	Examiner Patricia L. Nordmeyer	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 4, 2008 has been entered.

Withdrawn Rejections

2. Any rejections and or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn due to Applicant's amendments in the response dated September 4, 2008.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2 and 4 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriquez (USPN 4,817,805) in view of Miles (USPN 6,383,591).

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Rodriquez discloses a merchandising strip (Figure 1, #1) for displaying a plurality of discrete packages (Figure 1, #2), comprising: an elongated, narrow strip of plastic capable of supporting a plurality of discrete packages (Figure 1, #1; Column 8, lines 50 – 55) said strip of plastic having a plurality of edges along a longitudinal axis (Figure 1, #1), said strip of plastic having a first side and a second side (Figure 4), and a plurality of adhesive elements (Figure 1, #3), said plurality of adhesive elements having an adhesive substance (Column 10, lines 26 – 33), each adhesive element capable of removably adhering to a discrete package of the plurality of discrete packages (Column 10, lines 26 – 33), said plurality of adhesive elements laminated to said second side of said strip of plastic (Figure 4) as in claim 1. As in claims 6 and 7, the adhesive elements have a rectangular or square configuration (Figure 1, #3). With regard to claim 12, said strip has first and second ends and has a hole near one end of said strip, to allow said strip to be hung vertically for display (Column 5, line 63 to Column 6, line 23). However, Rodriquez fails to disclose said first side being coated, wherein the coating of said first coated side is substantially non-adhesive to said plurality of adhesive elements, whereby ease in rolling and unrolling said plastic strip along the longitudinal axis is enabled by said coated side and adhesive element combination, said strip of plastic is clear plastic, said coating on said first side is comprised of silicone, said adhesive elements each have a circular, triangular, pentagonal, oval or star configurations and said strip has first and second ends and has first and second holes, one such hole being near each end of said strip, to allow said strip to be hung vertically for display without regard to the orientation of any such packages attached to said adhesive elements.

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Miles teaches a strip (10) comprising an elongated, narrow strip (14) of transparent plastic (col. 13, lines 15-18) having a first coated side (col. 6, lines 42-48), the coating on said first side covering the entire surface of such first side (because the patent does particularly specify that it is partially coated as arguably admitted by the applicant is the Appeal Brief of 10/2/2007, page-5, lines 17-18), and a second uncoated side (figure-2 showing the side with the adhesive (26)), whereby said coated side is coated with silicone (Column 6, lines 42 – 48) that allows said strip to be easily rolled up and unrolled from a roll (col. 6, lines 42-48) and the strip has first and second holes, one such hole being near each end of said strip (such as perforation as recited in col. 12, lines 32-33 which includes a hole at each end of the line of perforations) for the purpose of facilitating the unwinding of the sheeting from a roll (Column 6, lines 45 – 46).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the first side coated with silicone in Rodriguez in order to facilitate the unwinding of the sheeting from a roll as taught by Miles.

Rodriguez, as discussed above, fails to teach that the adhesive elements configuration is circular, triangular, pentagonal, oval, or star. It would have been an obvious matter of design choice to modify Miles' adhesive pattern such that each of the adhesive elements having the dot shape is modified to have a circular, triangular, pentagonal, oval or star configuration to provide for a discontinuous pattern for controlling the adhesiveness, and such a change in shape would have obvious to one having ordinary skill in the art.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 2 and 4 – 13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,840,391 to Miller et al. is cited to show the state of the art with regard to display strips.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571)272-1496. The examiner can normally be reached on Mon.-Thurs. from 10:00-7:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia L. Nordmeyer
Primary Examiner
Art Unit 1794

/Patricia L. Nordmeyer/
Primary Examiner, Art Unit 1794